

Document Information Form

Mine Number: _____

File Name: **2006 GENERAL** _____**To:** DIVISION OF OIL, GAS AND MINING, COAL PROGRAM**From:****Person** MARY ANN WRIGHT**Company** DIVISION OF OIL, GAS AND MINING**Date Received:** MAY 8, 2006**Explanation:**Overview Of State Financial Assurance Programs For Mining Reclamation. Received At The
Interstate Mining Compact Commission Meeting (Imcc), May 2006**cc:**



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Overview of State Financial Assurance Programs for Mining Reclamation

State Survey Responses

May 2006

Survey Instrument

Coal Programs under Title V of SMCRA

- 1) What adjustments, if any, have you undertaken (or considered undertaking) with regard to the existing reclamation bonding requirements under your state program (i.e. moving to conventional bonding systems and away from alternative bonding systems; use of trust funds; use of corporate guarantees)?
- 2) What are the particular challenges you are facing in your state with regard to bonding requirements for surface coal mining operations?
- 3) Are you experiencing surety companies requiring new or additional collateral in conjunction with surety bonds? If so, what types of collateral (i.e. cash or cash equivalents; investment-grade rated securities; interests in real and personal property)?
- 4) What percentage of your state's outstanding bonding obligations are met using the following instruments or mechanisms:

Traditional surety bonds _____

Corporate guarantees:

- Self bonds _____
- Parent guarantees _____
- Third-party guarantees _____

Collateral only _____ Please specify the nature thereof: _____

Trust funds _____ Please specify the nature thereof: _____

Bond pools _____

Other _____ Please specify the nature thereof: _____

- 5) What, if any, adjustments have you made to your bond calculation methodology? If none, are you facing any particular challenges with regard to this matter?
- 6) With regard to bond release, what are the particular challenges you are facing in this area? Have you developed any type of guidance on this topic?
- 7) What types of innovative approaches are you undertaking in the area of reclamation bonding (i.e. segregating obligations (short v. long term); use of multiple instruments; matching the level of risk to the appropriate financial assurance vehicle)?
- 8) What protections has your state enacted or adopted to avoid bankrupt surety problems?

Noncoal regulatory programs

- 1) Does your state have a financial assurance requirement for noncoal mining and reclamation?
- 2) If so, what areas are covered by the requirement (i.e. entire permit area; proposed affected area; haul roads; processing or stockpile areas)?
- 3) What types of financial assurance, if any, does your state require for mining reclamation obligations and what are the relative percentages?

_____ Traditional surety bonds

_____ Collateral

Please designate:

_____ Cash or cash equivalents

_____ Investment-grade rated securities

_____ Interests in real or personal property

_____ Water rights

_____ Bond pools

_____ Trust funds

_____ Corporate guarantees

Please designate:

_____ Self bonds

_____ Parent guarantees

_____ Third-party guarantees

_____ Other

Please specify: _____

- 4) What is the amount per acre required under your financial assurance procedure? (If a rate structure applies, please specify).

- 5) What types of calculation methodologies do you employ for determining the required financial assurance amount?
- 6) To what extent has RELEASE of financial assurance obligations been an issue for your state? Do you have procedures or guidelines in place addressing release?
- 7) What is your experience with regard to the availability of surety bonds?
- 8) What are the specific challenges you are facing with respect to financial assurance in your state?
- 9) What types of innovative approaches are you considering with respect to financial assurance (i.e. segregating risk (short v. long term); use of dedicated trust funds; use of multiple instruments; matching the level of risk to the appropriate mechanism; phased bonding)?
- 10) What adjustments to your regulatory program have you undertaken (or considered undertaking) in the area of financial assurance?

State Responses

Coal Programs under Title V of SMCRA

Coal Programs Under Title V of SMCRA

State Survey Responses

1) What adjustments, if any, have you undertaken (or considered undertaking) with regard to the existing reclamation bonding requirements under your state program (i.e. moving to conventional bonding systems and away from alternative bonding systems; use of trust funds; use of corporate guarantees)?

State	Response
AL	None
AR	None
CO	All Colorado bonds are calculated on a task-by-task basis, using industry standard cost estimating techniques. This has been the case for many years, and we do not intend to change this practice
IL	We are a conventional bonding system.
IN	None in regard to systems of bonding with exception of a revision to the Bond Pool statute. Indiana's Bond Pool covers Phase II and Phase III only. Phase I must still be guaranteed through a conventional method. The revision to the statute strengthened Indiana's program as it provides an avenue to remove a company from the Bond Pool if they do not aggressively pursue bond release.
KY	Kentucky primarily relies on the use of conventional bonds. The state also has a bond pool and accepts cash and letters of credit. Consideration is also being given to potentially allowing the creation of Trust Funds in order to manage the long-term financial obligations created by AMD.
MD	Maryland is in the early stages of revising their coal mining bonds. We maintain an alternative bonding system utilizing a per acre bond and a Bond Supplement Fund that is funded by a \$0.10 per ton fee. The Fund cap is set at \$750,000. There are 63 active coal mining permits in Maryland. We are considering a bond requirement based upon the worst-case volume of material that would have to be moved to backfill a permit in addition to a flat rate bond for support area and revegetation. If implemented, it won't be a total full cost bond, but it will increase the bond amount on those permits that have a higher reclamation liability and significantly reduce the liability to the Supplement Fund in the event of forfeiture. Maryland will not consider self-bonding.
ND	North Dakota recently added rules that allow letters of credit as the financial instrument to back a collateral bond. Previously, we only accepted cash deposits and certificates of deposit as the collateral. We also accept surety and self bonds.
NM	No adjustments made.

OH	<p>Revised statutory language is being reviewed to move from Alternative Bonding system with a bond pool to a revised bond mechanism including optional "full cost bonding" as well as a bond pool mechanism. Also, we are revising the Letter of Credit language to provide a longer period of notification prior to expiration. A bill will be proposed shortly which would change the existing Ohio bond pool system. Key provisions are as follows:</p> <ul style="list-style-type: none"> ▶ The bond pool is optional. For those who choose not to participate, full cost bonding will be required using the OSM bond calculation procedure to determine the bond amount and they will not pay any severance tax toward the bond pool. For those who choose to participate the severance tax will be 14 cents per ton. ▶ A one-time 5 million dollar general fund appropriation is proposed that will clean up the backlog of sites where insufficient funds have been available to reclaim. ▶ Bond pool membership will be restricted to companies that have paid severance tax for a 5-year period. ▶ The bond pool will not cover coal preparation plants that are not associated with an active permit. These items will require full cost bond. ▶ The bond pool will not cover long-term acid mine drainage treatment or water supply replacement requirements. The statute will provide for a trust fund system to assure discharge treatment. ▶ The bond pool will not cover subsidence repair as this will be covered by an insurance policy, as Illinois requires. ▶ Current Ohio law does not allow bond adjustment. The bill proposes to allow bond adjustment for bond pool permits in those circumstances only where a failure to abate cessation order has been issued for non-contemporaneous reclamation. ▶ The bill proposes to give the agency a priority lien in front of all other creditors in the event of bankruptcy. ▶ A coal bond advisory board is proposed comprised of 2 persons from industry, 2 from the state and an independent CPA. ▶ A severance tax credit is proposed for an operator who reclaims a bond-forfeited site in the amount of the construction estimate the agency would have spent to reclaim the site.
OK	None
PA	<p>The cost of two recent bond forfeiture sites is significantly higher than the full cost bond amount. We investigated to determine the reason for the difference, have reported that to the Mining and Reclamation Advisory Board and have sought the MRAB's advice on how to fine tune our bonding methodology to prevent future occurrences. We anticipate receiving the MRAB's advice on April 27, 2006 and will then decide what refinements to make. Pennsylvania is also developing a "blanket bond" for surface coal mining that would allow a permittee to post one bond to cover all of its surface coal mine permits instead of having individual bonds posted for individual surface coal mine permits.</p>
TX	No adjustments have been made and none are contemplated at this time.
UT	<p>Utah now requires that surety bonds must have an A.M. Best's Key Rating Guide rating of A- or greater. All surety companies must be continuously listed on the U.S. Department of Treasury Circular 570.</p>

VA	None
WV	HB 3033 (2005 Regular Session) required the agency to consider and make determinations concerning the feasibility of certain financial assurance mechanisms (full cost bonding for land reclamation, water quality trust fund, water treatment bonds) for reclamation of a coal mine site and the impacts of such mechanisms on the fiscal stability of the Special Reclamation Fund (SRF). The evaluation of the financial assurance mechanisms is a work in progress. It appears any bonding mechanism could need a fund to address situations where the calculated costs of reclamation are inadequate or the bond amount is uncollectible.

2) What are the particular challenges you are facing in your state with regard to bonding requirements for surface coal mining operations?

State	Response
AL	None
AR	Shift from surety bonds to Letters of Credit since only small operators are mining.
CO	Routine challenges occur as we negotiate permit-specific bond amount requirements with permittees. Negotiations must reconcile the regulatory requirement for adequate bond with the permittee's need to maintain an amount that is reasonable and affordable.
IL	It has become difficult for a company to obtain a surety bond for coal mining operations. In the past five + years, we have moved away from surety bond to letters of credit and CD's for bonding small areas. In the past three years, we have seen a move by the big company toward self bonding. However, a majority of the bonds held are surety bonds.
IN	Industry continues to give the indication it is difficult to obtain bonds. Surety companies are very concerned with LLC Corporations and several levels of ownership. This issue has delayed transfer or renewal applications in the past and puts the RA in a position in which enforcement action may be necessary.
KY	Variability in the bonding market.
MD	Maryland has statutory bond minimums and no maximums. Therefore, the RA can increase bond amounts as necessary to insure adequate funds for reclamation. This process has been done on individual permits occasionally but generally per acre bond amounts are set industry wide. Political pressure could be placed on the RA that could be somewhat problematic but would not likely stop the increase.
ND	The high cost of surety bonds is the biggest issue; however, a small company could not recently find a surety to issue them a reclamation bond for a new permit area. That company had to furnish a collateral bond backed by a letter of credit.
NM	No significant challenges.

OH	Surety companies are hesitant to write reclamation bonds; operators are forced to seek alternative bonding. Overall, bond amounts and supplemental severance tax are currently insufficient to cover liabilities to the state. Industry will not accept full cost bonding for all operations.
OK	None, although more assistance for small to mid-sized operators would be helpful.
PA	Convincing permittees that are no longer mining to post the additional bond to provide for the perpetual treatment of their post mining discharge. We are hearing from operators that it is still difficult for them to obtain surety bonds.
TX	No particular challenges.
UT	An operator notified the state of Utah that their surety is no longer interested in providing reclamation bonds for mining companies. The surety will maintain their bond but will cancel the bond if any change or "rider" is requested. The operator emphasized "any". This position reflects a new level of inflexibility by bonding companies.
VA	The availability of surety bonds.
WV	<ul style="list-style-type: none"> ▶ Accomplishing land reclamation and water treatment at revoked sites with available funding. ▶ Imposition of water quality standards on the agency at revoked sites. ▶ Determining the amount of full cost bond for any given mining permit. Some of the methods to consider in determining "full cost bond" amounts are the OSM handbook, a revised matrix from the WV mining rules, and historic costs for the Special Reclamation Program to reclaim revoked sites. Another complication in ascertaining a full cost bond amount is the fact that the costs for water treatment are often difficult to estimate due to the broad ranges of water flow, concentrations of pollutants, duration, and other factors that influence water discharges associated with some mining operations.

3) Are you experiencing surety companies requiring new or additional collateral in conjunction with surety bonds? If so, what types of collateral (i.e. cash or cash equivalents; investment-grade rated securities; interests in real and personal property)?

State	Response
AL	Do not know this answer.
AR	No.
CO	We hear that such arrangements are occurring with some permittees and their surety companies, but we do not become involved in this transaction. Permittees are obtaining required bonds.

IL	I have been told that where a surety bond is used, the surety company has increased the collateral requirements. However, we are not directly involved with the bonding agreements between coal companies and surety companies.
IN	We are not aware but this is a matter that would be between the surety and the permittee.
KY	Based on comments from industry, surety companies are requiring additional collateral. We are not certain specifically what types of collateral they may be requiring.
MD	We do not have direct contact with the sureties regarding collateral. However, operators have indicated to us that their sureties generally require between 25 to 80% collateralization with the norm closer to 80%. Some have indicated their sureties require 100%.
NM	Surety bonds have been a very small part of NM's coal financial assurance for a while. The last two bonds were released in 2004 when those mines reached final bond release. Late last year, a new mine obtained a surety bond for its first 5-year term, which covers mostly facility construction. That mine is paying high premiums and will likely convert to self-bond to meet the higher bonding requirements for actual mining disturbance. We are not aware of any collateral requirements from surety companies.
ND	The mining companies are dealing with this issue on a case-by-case basis. It is our understanding that some surety companies have required the mining companies to provide collateral in order to have a surety bond issued.
OH	Operators complain of such things as posting collateral in the amount of the bond. No personal knowledge of requirements.
OK	No. N/A
PA	Do not have any information on this point.
TX	None, to my knowledge.
UT	Utah is not aware of any of these changes.
VA	Have heard of these items being required, but do not have any specific information.
WV	The agency is aware of sureties requiring additional collateral for surety bonds, but is uncertain of the details.

4) What percentage of your state's outstanding bonding obligations are met using the following instruments or mechanisms:

Traditional Surety Bonds:

AL	55%
AR	48%
CO	73%
IL	69.63%
IN	24%
KY	80%
MD	Approximately 40% of bonds are surety; 40% CD's; and 20% Letters of Credit. Some companies use a combination of all three.
ND	37.3%
NM	1%
OH	30%
OK	90%
PA	66%
TX	6.5%
UT	90%
VA	91.21%
WV	85%

Corporate Guarantees:

Self Bonds:

Parent Guarantees:

Third-Party Guarantees:

AL	2%		
CO	3% (All include a parent guarantee)		
IL	1.5%	20.83%	2.80%
IN		57%	1%
ND			57.3%
NM	35%	22%	
TX	16.5% (Self bonds with Third-Party Guarantee: 73.5%)		
VA	5.72%		0.12%
WV	11% (Includes parent guarantors)		

Collateral Only:		Please specify the nature thereof:
AL	43%	Cash, Certificates of Deposit (CD's), Bank Letters of Credit (LOC) 16% = CD; 5% = Cash CD's, LOC and Cash. The use of LOC's is increasing, however, many banks will not write because of our specific requirements.
CO	21%	
IL	5.16%	
IN	13%	Most are in the form of cash deposits but we have accepted one LOC LOC CD's Escrow Account Deposited Monthly CD's, LOC, Cash, US Treasuries LOC Irrevocable LOC's - 5%; Government Securities - 4%; Real Property - 1% CD's and Cash
ND	5.4%	
NM	42%	
OH	3%	
OK	0.5%	
PA	17%	
TX	3.5%	
UT	10%	
WV	2%	
Trust Funds:		Please specify the nature thereof:
PA	8%	Various Investments (Stocks/Bonds)
Bond Pools:		
IN	5%	
KY	5%	
OH	66%	
VA	57.20%	
Other:		Please specify the nature thereof:
AR	52%	Irrevocable Letter of Credit
CO	3%	Letters of Credit (LOC's)
KY	15%	LOC's, CD's and Cash
NM	42%	LOC's
OH	1%	LOC's
OK	0.5%	Irrevocable LOC's
PA	10%	State Financial Guarantees (Remining Incentive & Conversion Assistance).
VA	3.07%	LOC's, Cash, CD's, Actual Cost Bond – 42.80%
WV	2%	LOC's

5) What, if any, adjustments have you made to your bond calculation methodology? If none, are you facing any particular challenges with regard to this matter?

State	Response
AL	Periodic adjustments of cost factors due to inflation.
AR	None. No.
CO	None. See response to # 2.
IL	None. No.
IN	None. No.
KY	Kentucky requires the submittal of supplement bonds in situations of extending contemporaneous reclamation relative to highwall backfilling and grading. This instrument, termed "supplemental assurance" assesses an additional bond requirement of \$50,000 per 1,500 linear feet of highwall extending beyond the allowed initial 1,500 feet of exposed highwall.
MD	As indicated in # 1 above, we are considering a calculation method based on the total void of the pit(s) when liability would be the greatest. This method will provide a figure of the total cubic yards of material that would have to be moved to reclaim. We would likely still bond support area and revegetation at a flat per acre rate based on our AML reclamation cost experiences.
ND	In 1985, North Dakota adopted procedures and guidelines for calculating the worst-case reclamation condition for a permit area or mine. The variable costs associated with these guidelines are updated each year by the Reclamation Division and sent to the mining companies. If hourly rates increase more than a couple percent in a given year, we require companies to increase the bond amount. Also, if more than one permit is issued for a particular mine, we allow a bond area to include more than one permit at a time. Based on questions raised by one of the large mining companies in the state, we are presently reviewing the methods we use to calculate hourly equipment rates. However, it does not appear we will be making any significant changes to the methods used for calculating the hourly rates for the types of equipment that would be used to reclaim a mine in the event of bond forfeiture.
NM	None. No.
OH	None. No changes have been made to the calculation method because the bond rate is flat \$2500 per acre set by the legislature.
OK	None, other than keeping up with current equipment operating costs.

PA	Pennsylvania assesses its Bond Rate Guidelines annually based on the prior year's reclamation contract amounts. Changes in the reclamation contract amounts affects the Bond Rate Guidelines. Some items have increased.
TX	No adjustments have been made to our bond calculation methodology. However, one of our calculation methods, the "worst case pit" bonding method, presents the following challenges: requires detailed reclamation cost accounting, not flexible to mine plan changes and when major compliance issues arise may result in inadequate bond amounts, until adjusted.
UT	Utah has a prescribed reclamation cost estimate methodology. The bond calculations are reviewed at least at the permit midterm and escalated for five years. Bond re-calculations are done when there is a need, such as adding a new surface facility. The escalation factor was recently revised – i.e. the Historical Cost Index. The revision entails reviewing "reclamation only" historical costs from the Means Historical Cost Index.
VA	None
WV	The tax used to supplement the Special Reclamation Fund was increased to provide funding for the inventory of post 1977 revoked sites.

6) With regard to bond release, what are the particular challenges you are facing in this area? Have you developed any type of guidance on this topic?

State	Response
AL	None
AR	None. No.
CO	Bond release proceeds without difficulty. Act/Regs, and we have a Bond Release Guidelines.
IL	None
IN	Indiana has had a standardized process for all Phases of bond release for a number of years and terminated jurisdiction on nearly 9,000 acres in 2004.
KY	Kentucky is not encountering any real or unusual challenges relative to bond release. We have a standardized bond release process that has been established in a guidance document.
MD	We have not experienced any difficulties in this area.

ND	<p>Since we allow the bond amount to be set based on the worst-case reclamation condition, we have not been receiving all that many bond release applications for reclaimed lands at the active mines. Hardly any partial bond release applications are filed and final bond release is delayed until a larger tract, such as an entire quarter section, is eligible for release. Partial bond release for inactive mines is more common.</p> <p>Following a legislative study on bond release in North Dakota, a few of the notice requirements associated with bond release applications were eliminated from the state reclamation law to encourage companies to file more bond releases.</p>
NM	<p>Bond releases have been managed smoothly with few problems. The biggest challenge has been meeting vegetation standards during years of little or no precipitation. Several years ago, New Mexico developed flexible criteria for revegetation success that has aided some mines in reaching final bond release despite drought years. NM Faces some frustration, however, with persuading companies to come in for bond releases when they are eligible. If they have corporate guarantees or self-bonds, they have little incentive to do so.</p>
OH	<p>Current challenges are related to adverse water quality issues on reclaimed sites. Ohio has included in regulation the requirement for operators to "take all measures necessary to obtain a bond release on sites". This includes the requirements to submit necessary release paperwork. This allows the required submission of bond release documents that previously would lag behind the actual reclamation work. Ohio has procedural directives.</p>
OK	<p>We have bond release guidelines that have been used in Oklahoma for about 10 years.</p>
PA	<p>Nothing new.</p>
TX	<p>Some permittees with self bonds and/or using the "worst case pit" bonding method have become apathetic towards seeking reclamation bond releases because there is no monetary incentive in doing so. To overcome this situation, we have (since about 5 years ago), required that the submission of bond release applications be made part of the reclamation plan timetable, which is a condition of the approved mining permit. This allows failure to submit bond release applications within specified time frames to become a violation of the permit.</p> <p>More recently, we revised our annual permit fee structure to include an annual fee of \$3.00 for each acre bonded on December 31st of each year. It is our goal to gradually shift all of the annual mined acreage fee collections to this bonded acreage fee, thereby creating an incentive for mining companies to more aggressively seek release of reclamation bond.</p>
UT	<p>Utah has a guidance document for bond releases.</p>
VA	<p>Getting permittees to submit bond release requests. VA has developed a guidance document.</p>
WV	<p>One challenge to bond release is the circumstances where land reclamation is completed but ongoing water treatment obligations preclude release. The agency is exploring and in some instances utilizing escrow accounts or other financial assurance mechanisms to address compliance with Clean Water Act requirements in efforts to release the SMCRA reclamation bond. Vegetative cover and capability of meeting post mining land use continue to be</p>

7) What types of innovative approaches are you undertaking in the area of reclamation bonding (i.e. segregating obligations (short v. long term); use of multiple instruments; matching the level of risk to the appropriate financial assurance vehicle)?

State	Response
AL	None
AR	None
CO	See above responses. Standard bonding is used in Colorado.
IL	None. However, a permittee is free to post any combination of bonding instruments. The Indiana Bond Pool is a mixing of multiple instruments. Other multiple instruments are always available to utilize should the permittee wish to do so.
IN	
KY	None. However, Kentucky is examining the possibility of creating Trust Funds as an option to managing long-term AMD problems.
MD	See # 1 and # 5.
NM	None
ND	North Dakota only allows self-bonds to cover up to 90% of the reclamation liability at a particular mine. The other 10% must be in the form of a surety or collateral bond. We assume it will take a long time to collect on a self-bond and funds from the 10% surety or collateral bond should be more readily available to address short-term reclamation and environmental issues in the event of forfeiture.
OH	Ohio attempted to establish a system where the cost of Phase I was covered by full cost bonding and Phase II and III was covered by a bond pool. The industry would not accept the system.
OK	None
PA	The most recent innovation is the development of a "blanket bond" that an operator could elect to use to cover all of the operator's permitted surface coal mines.
TX	None
UT	Utah is willing to discuss reclamation bonding issues as they arise and advise permittees that multiple instruments, for example, are acceptable.
VA	None
WV	The agency examines the capability of a transferee to assume long-term environmental liabilities. In some instances if the transferee appears to lack the capability, escrow accounts to assure satisfaction of the long term environmental liabilities are established.

8) What protections has your state enacted or adopted to avoid bankruptcy surety problems?

State	Response
AL	None
AR	None
CO	Both bond amounts and instrument efficacy are monitored frequently. Financial notices are monitored. Dialogue maintained with permittee.
IL	None. Action would be through the Illinois Department of Insurance.
IN	Sureties must be recognized by the Treasurer of Indiana as holding a certificate of authority from the United States Department of Treasury as an acceptable surety on federal bonds.
KY	AM Best for ratings. Also Kentucky Department of Insurance provides notification to the department when a surety's ratings drop to a level that necessitates bond replacement.
MD	We've not adopted any policy on this matter. To date, it has not been a problem in Maryland. However it is something that should be reviewed and consideration given to how other states are addressing this matter.
NM	None
ND	No special provisions have been adopted by the coal regulatory authority. We rely on the State Insurance Department to take steps to avoid these types of problems.
OH	None
OK	None
PA	None
TX	None
UT	Utah now requires that surety bonds must have an A.M. Best's Key Rating Guide rating of A- or greater. All surety companies must be continuously listed on the U.S. Department of Treasury Circular 570.
VA	The VA DMME has formed a bond forfeiture review team. When a site appears to b in the initial stages of possible bond forfeiture, the review team conducts a site visit to gather information about the causes of the possible forfeiture and explores ideals of how to help the operator avoid bond forfeiture.

WV

The Special Reclamation Fund finances the reclamation at revoked permit sites. The SRF is funded by bond forfeitures, civil penalties and tax on tonnage. At a revoked site covered by a "bankrupt surety", as with all revoked sites, the SRF funds the reclamation work at these sites. The WVDEP is authorized to seek recovery of reclamation costs in excess of the bond amount collected from the permittee or other responsible party.

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State Responses

Noncoal Regulatory Programs

Noncoal Regulatory Programs **State Survey Responses**

1) Does your state have a financial assurance requirement for noncoal mining and reclamation?

State	Response
AL	Yes
AR	Yes
CO	Yes
KY	Yes
MD	Yes
NM	Yes
NY	Yes, financial security is required before any permit can be issued. The requirement can be found in 23-2715 of Environmental Conservation Law, Article 23, Title 27 – NYS Mined Land Reclamation Law.
NC	Yes
ND	Currently, other than sand and gravel mining, there is no significant noncoal mining in North Dakota. Although there is a general state law that requires sand and gravel pits to be reclaimed following a reclamation plan agreed to by the landowner, these mines do not have to be permitted or bonded.
OH	Yes, currently it is a flat \$1,000/acre but legislation is proposed to reduce it to \$500/acre and establish a bond pool for the balance based upon a severance tax contribution.
OK	Yes
PA	Yes, full cost bonding.
UT	Yes. The "Utah Mined Land Reclamation Act" was passed in 1975 and required the reclamation of mining operations. Reclamation bonds were required for large mining operations but not for the small mines (less than 5 acres of disturbance). The act was amended by the 2003 Legislature to require all mining operations to furnish reasonable surety to guarantee that the land affected is reclaimed. Rules have also been put in place (effective February 23, 2006) that require all large mines, small mines and exploration projects to post a reclamation surety with the Division prior to commencement of operations. Since these are new rules, we are still in the process of getting bonds on many of the smaller mines.

VA	Yes
WV	Yes. West Virginia has a financial assurance requirement for noncoal mining and reclamation. For operations with less than 5 years without a serious violation under previous WV mining laws, the operator shall post a bond. For operations with more than 5 years without a serious violation under previous WV mining laws, the operator is required to enter into the Bond Pooling Fund.

2) If so, what areas are covered by the requirement (i.e. entire permit area; proposed affected area; haul roads; processing or stockpile areas)?

State	Response
AL	Affected area (excluding haul roads and including processing and stockpiles).
AR	Proposed 5 year affected area, haul roads, and both processing and stockpile areas.
CO	All disturbed areas including demolition, backfill/grading, waste pile reclamation, heap detox, growth medium application, revegetation. (Generally not water treatment.)
KY	Entire permit area.
MD	Affected lands which would include mining areas and all other lands affected by or incidental to the mining operation.
NM	Entire permit area.
NY	All areas that will be affected by mining and require reclamation. This includes haul roads, processing areas, stockpile areas, etc.
NC	Total proposed affected area.
OH	Acres proposed to be affected. Ohio does not have regulatory jurisdiction over processing or stockpile areas. Jurisdiction over roads varies depending on how it is used.
OK	The entire permit area.
PA	The permit area is covered.
UT	<p>The areas covered by the reclamation surety include:</p> <ul style="list-style-type: none"> ▶ All surface and subsurface areas affected or to be affected by the mining operations including but not limited to private on-site ways, roads, railroads; land excavations; drill sites and workings; refuse banks or spoil piles; evaporation or settling ponds; stockpiles; leaching dumps; placer areas; tailings ponds or dumps; work, parking, storage, and waste discharge areas. ▶ All mining disturbances regardless of discrepancies in the map and legal description, unless explicitly and clearly identified as EXCLUDED on maps, and legal descriptions included in the approved NOI.

VA	All areas currently affected by the operation, plus an estimate of the additional area to be disturbed in the next year.
TX	The availability of surety bonds.
WV	Bond or contribution to the Bond Pooling Fund is posted for disturbed acres and the estimated number of acres to be disturbed in the upcoming year. The financial assurance covers the mining area, preparation and processing areas, storage areas, haulroads, roads, trails, drainage structures and spoil areas.

3) What types of financial assurance, if any, does your state require for mining reclamation obligations and what are the relative percentages?

State	Response
	Traditional Surety Bonds:
AL	60%
AR	83.3%
CO	51%
KY	50%
MD	40%
NM	Yes, 9.6%
NY	48%
NC	Yes, ~20%
OH	40% (Est.)
OK	89%
PA	77%
UT	Yes. 24% of the number of reclamation bonds currently held are sureties. This represents 76% of the total dollar amount held in reclamation bonds.
VA	2%
WV	Yes

Collateral:**Please Designate:**

***Cash or Cash Equivalents (Cash or CE);
Investment-Grade Rated Securities (Invest.);
Interests in Real or Personal Property (Property);
Water Rights (Water)***

AL	40%	38% Cash or CE; 2% Invest.
AR	3.1%	3.1% Cash or CE.
CO	27%	20% Certificates of Deposit (CD's), 7% Cash; One Permit Invest.; 0% Property; One Permit Water.
KY	25%	Cash or CE.
MD	42%	Letters of Credit (LOC's) from a Bank. 18% Cash or CE.
NM	Yes, 11.9%	7.4% Cash or CE; 4.5% Property; 0% Water; (No to Invest.).
NY		48% Traditional Surety Bonds; 26% CD's; 26% LOC's; .02% Certified Bank Check; .006% Cash.
OH	40% (Est.)	Cash or CE.
OK	10%	1% Cash or CE.
PA	22%	4% CD's, Cash; 18% LOC's.
UT	Yes	Cash or CE. The Division holds Cash, Cd's, LOC's and an Escrow Account. Approximately 64% of the number of bonds fits this category. This represents about 14.32% of the total dollar amt. held.
VA	2%	2% Cash or CE.
WV	Yes	Cash or CE.

Bond Pools:

OH	The aggregate/industrial mineral program does not have a dedicated bond pool. However, severance taxes are transferred to a bond pool account on an annual basis that are used to reclaim both coal and noncoal forfeiture sites.
VA	96%
WV	Yes

	Trust Funds:		
NM	Yes, 13.4%		
	Corporate Guarantees:	Please Designate –	
		Self Bonds:	Parent Guarantees: 3rd-Party Guarantees:
CO	1%	1%	
NM	Yes, 65.1%		65.1%
NC	Yes		~<1% Bank Guarantees
UT	Yes		
	Other:	Please Specify:	
AR	13.6%	Irrevocable Letter of Credit	
CO	21%	Letters of Credit	
NM	Yes	Insurance (0%)	
NC	Yes	Assignment of Savings Account/Certificate of Deposit (~50%) And Irrevocable Standby Letters of Credit (~30%)	
OH	20% (Est.)	Letters of Credit	
PA	<.01%	Payment in lieu of bond, aka state bonding.	
WV	Yes	General obligation bonds of the state, and of any county or municipality, Certificates of Deposit, Escrow Accounts.	

4) What is the amount per acre required under your financial assurance procedure? (If arate structure applies, please specify.)

State	Response
AL	A flat rate of \$2,500 per acre.
AR	We have a list of cost factors to be used to calculate the bond (attached).
CO	Bonds are calculated on a task-by-task basis using industry standard cost estimating methodologies, as with coal permits.
KY	\$100 - \$500 per acre (usually \$500 per acre).
MD	\$1,250 per acre.

NM	We do not use a per acre calculation. The amount of financial assurance must be sufficient to assure that the approved reclamation plan can be completed by the State or a third party contractor.
NY	Minimum of \$5,000 per acre. No specified amount in law or regulations, depends on geology, geography, type of mining and reclamation. Recently raised from \$3,000 per acre.
NC	See attached bond calculation worksheet and schedule of costs.
OH	\$10,000 minimum bond plus \$1,000/acre for new acres. Old acres are @ \$500/acre with a \$2,000 minimum bond.
OK	\$500 to \$1,000 per acre, based on the type of mineral mined.
PA	The estimated full cost of completing the reclamation.
UT	The amount per acre required by our program varies with each plan. The bond is a reflection of amount of work required to reclaim the site to the level of the approved reclamation plan.
VA	\$1,000 per acre surety bond or other financial guarantee (cash or CD). Then, mandatory participation in the bond pool after 5 years of successful operations in the state. \$50 per acre initial payment into the bond pool for each acre estimated to be affected in the next year. \$12.50 per affected acre for each year thereafter until the total payment per acre reaches \$500. The payments are fully refundable on release.
WV	For bonds, the minimum is \$1,000 per acre, with a total minimum of \$10,000 per permit. For contributors to the Bond Pooling Fund, the initial contribution is \$50 per acre and an additional \$12.50 per acre thereafter until a total of \$1,000 is posted. Bond or contribution to the Bond Pooling Fund is posted for disturbed acres and the estimated number of acres to be disturbed in the upcoming year.

5) What types of calculation methodologies do you employ for determining the required financial assurance amount?

State	Response
AL	Acreage only.
AR	We review the costs for third party contract reclamation under the coal AML program and make adjustments as necessary.
CO	Bonds are calculated on a task-by-task basis using industry standard cost estimating methodologies, as with coal permits.
KY	New companies are \$500 per acre. No bond required for companies with good compliance record. Existing companies "may" be assessed a bond from \$100 - \$500 per acre based on job site specifics.

MD	In as much as the per acre rate is already insufficient, the maximum amount is applied in all cases.
NM	The operator must submit a detailed cost estimate. The estimate is reviewed by the agency's engineer who can accept, reject or revise the estimate.
NY	We have developed work sheets based on RS Means and others to come up with a figure that is consisted with the number mentioned above.
NC	See attached bond calculation worksheet and schedule of costs.
OH	Old Acres: \$500 x # of acres = Bond with \$2,000 minimum bond. New Acres: \$1,000 x # of acres = Bond with \$10,000 minimum bond.
OK	Actual cost estimates in addition to the total acreage disturbed.
PA	The bonding guidelines were developed a few decades ago.
UT	RS Means Heavy Construction Data and DataQuest Blue Book are used as a guide in costing out activities needed to reclaim a site. The Caterpillar Handbook is used to obtain equipment specifications. The bond is calculated based on: the amount of material to be moved to bring the site back to approximate original contour, removal of facilities, recontouring of dumps, replacing growth medium, and the amount of work required to reclaim access roads. Costs for seeding, supervision, and contingencies are also included. The extent of the reclamation efforts for the site is determined by the activities dictated by the approved reclamation plan. These costs are then escalated for a five-year period to cover anticipated cost of living increases. The site and the plan are reviewed every five years to assure that the plan and the bond are still appropriate.
VA	\$1,000 per acre if a new operator in the first 5 years, which is released after 5 years. Then, \$50 per acre for the first year and \$12.50 per acre for each successive year in the bond fund.
WV	Not based upon the actual cost of reclamation. The rates are calculated on a per-acre basis.

6) To what extent has *RELEASE* of financial assurance obligations been an issue for your state? DO you have procedures or guidelines in place addressing release?

State	Response
AL	Not an issue yet. Yes we have procedures or guidelines in place addressing release.
AR	Not an issue. Yes.
CO	Bond release proceeds without difficulty. Act/Regs, but no guidelines.
KY	No issues with release. Yes, there are guidelines for release.
MD	Release has not been an issue. We have guidelines in place that are used in the review of bond release.

NM	FA release is governed by our statute and rules which allow a permittee to apply once a year for a partial or final release. The release can cover any portion of the reclamation plan that has been completed (no "phases"). The agency must conduct an inspection which is open to the public. The public may file written objections and request a public hearing. A portion of the FA must be maintained for 12 years after final seeding, unless there is a post-mining land use that does not require revegetation.
NY	Release of financial assurance has not really been an issue in NYS. We have procedures and guidelines for the release of bonds.
NC	Partial or full release allowed after ~80% groundcover permanently established; recalculate bond based on remaining affected and to be affected acreage – operator can substitute bond at proper amount.
OH	Procedures are in place; the problem lies with the financial institution releasing monies prior to the state releasing liability. Operators can also obtain "pit floor bond releases" for portions of the pit where they have reached their final pit depth even though they still use that portion of the pit for storage, transportation, reclamation of the highwall, etc. That portion of the permit area then becomes unbonded even though it is still being used and has not met the final reclamation plan status as a water body (usually).
OK	N/A
PA	Has not been an issue.
UT	Generally bond release has not been much of an issue for us. As long as things are well documented we have no problem in releasing bonds. This includes partial release as well as full release. We have developed a bond release application form that must be filled out when applying for bond release. This form helps ensure that the operator has met the required reclamation obligations. Once an application for release is filed, the Division conducts an on site inspection to verify that reclamation has been completed.
VA	Has not been an issue. Yes, VA has procedures or guidelines. Upon implementation of the post mining land use and a minimum of 2 growing seasons for vegetated areas.
WV	Release of bonds or contributions to the Bond Pooling Fund has not been an issue. The new bonding requirements have only been in effect since 2000. Incremental and/or total release is allowed.

7) What is your experience with regard to the availability of surety bonds?

State	Response
AL	Only well capitalized companies can easily obtain a surety bond. Occasionally a small operator can obtain a small bond of \$25,000 or less.
AR	Major companies are not having any problems obtaining surety bonds.
CO	Market has tightened, but permittees seem to be getting bonds, or other acceptable instruments.
KY	To my knowledge there has not been a problem with surety bonds.
MD	For the larger companies the surety bond does not yet seem to be a big problem. For the smaller or mid size companies surety bonds became very difficult to obtain 10 years ago. Most all of them rely on Letters of Credit.
NM	Surety bonds have become less available and far more expensive. As a result, we rarely see new surety bonds and a number of operators, particularly large operators, are replacing their surety bonds with other forms of financial assurance.
NY	It has been cyclical. The number of companies writing bonds has decreased in the last 3-4 years. In NYS, there are only 2 companies currently writing bonds.
NC	Availability of bonds diminishing and requests from bonding companies to cancel existing bonds increasing.
OH	Only a handful of surety companies write reclamation bonds in the State of Ohio.
OK	Surety Companies have shown a reluctance to bond marginal financial operators.
PA	Some operators complain of the expense.
UT	The Utah rules require that corporate surety bonds can only be issued from a company with a rating of A- or better as listed in A.M. Best's Key Rating Guide. This of course limits the companies that can be used for acquiring a surety bond. It appears that our operators are having more difficulty in obtaining surety bonds. Our ratio of surety bonds versus cash bonds is gradually shifting towards cash bonds. This is especially true for the small mines, which generally end up posting some type of cash bond such as a CD or Letter of Credit. The larger mines seem to be able to acquire surety bonds.
VA	There is a limited availability, but limited need. Participation in the bond pool is mandatory after 5 years of successful operation in the state.
WV	Not aware of any problems.

8) What are the specific challenges you are facing with respect to financial assurance in your state?

State	Response
AL	Some operators mine illegally when they cannot easily call their insurance company to get a surety bond. A lot of the small operators don't have the cash to use in place of a surety bond.
AR	Small companies have a hard time with having the collateral for a bond to get a letter of credit or a certificate of deposit.
CO	Routine challenges occur as we negotiate permit-specific bond amount requirements with permittees. Negotiations must reconcile the regulatory requirement for adequate bond, with the permittee's need to maintain an amount that is reasonable and affordable.
KY	Have not really had any challenges in this arena.
MD	Our biggest problem in noncoal is the bond rate and the political battle in raising that. Letters of Credit have eased the surety bond issues; that is not a major factor for us at present. Also the consolidation of mid size companies into international companies has eased the burden that bonding was having several years ago.
NM	Financial assurance now requires greater resources and expertise from the agency. Since many operators, particularly large operators, can no longer obtain a single surety bond for a mine, they often employ a package of different financial assurance mechanisms including some that are relatively new or labor intensive. Trust funds require negotiation of trust agreements, guarantees require an understanding of financial statements and collateral requires significant due diligence. And each of these mechanisms requires monitoring. Our rules allow us to hire contractors and charge the operator; we have used this authority to employ appraisers, environmental consultants, lawyers and economists.
NY	We are currently raising the bond amounts from a traditional \$3,000 per acre to a minimum of \$5,000. We are trying to phase in the requirements in order to help the small operators comply. The larger companies do not have too much difficulty in complying with the new requirements. Our biggest problem is trying to get reclamation accomplished at sites where the state has claimed the financial assurance and the amounts are too low to perform the required reclamation.
NC	Unless operator has cash/collateral equal to the bond amount requested, he will not qualify for surety bonds or letters of credit as risk considered too high (new operators can't get bonds as they have not generated income yet to reduce risk).
OH	<ul style="list-style-type: none"> ▶ Tracking liability lies with the state on CD's and Letters of Credit. Banks are sometimes paying out on a bond instrument without agency consent, even though the state's name is on the instrument as a conditional beneficiary. The accounting procedure required by the Treasurer has become an administrative burden for the agency.

	<p>► The bond rate is low – \$500 - 1,000 per acre – and the bond pool is shared with the coal program that uses most of the money, therein delaying reclamation of noncoal sites.</p>
OK	We need more sureties that will post bonds for our operators.
PA	Updating the 20+ year old bond guidelines. The adjustment could result in significant work load increase and significant bond increases.
UT	Our biggest challenge seems to be getting the necessary paperwork filled out by the operators and the financial institutions. We have recently developed new forms that are helping with this. We have occasionally had circumstances where the financial institution that supplied a bond has gone bankrupt or has lost its ability to be listed on the U.S. Department of the Treasury Circular 570. When this occurs the operator is given 120 days to replace the bond. Because our rules for bonding small mines have only just been implemented we are now facing the challenge of getting all of our small mines bonded.
VA	Collection of debts for funds spent from the bonding pool to reclaim sites. Operators are usually bankrupt, and the reclamation debt is a lower priority lien.
WV	The bonding rate and contribution to the Bond Pooling Fund is very inadequate to cover the cost of reclamation.

9) *What types of innovative approaches are you considering with respect to financial assurance (i.e. segregating risk (short v. long term); use of dedicated trust funds; use of multiple instruments; matching the level of risk to the appropriate mechanism; phased bonding)?*

State	Response
AL	None.
AR	We have incremental bonding available.
CO	With few exceptions, standard bonding is used.
KY	None.
MD	We limit the number of acres disturbed to try to phase in the project to limit the liability of reclamation.
NM	We have implemented a number of approaches in recent years, based in part on the rule changes described below. These include accepting different types of financial assurance mechanisms (e.g. trust funds), approving multiple mechanisms at a single mine, and lessening the reliance on guarantees (through a cap and over time). As we implement these approaches we will likely see ways to improve them.
NY	We are currently employing multiple instruments, phased bonding, segregation of risks and encouraging concurrent reclamation.

NC	None.
OH	None in the noncoal program. Ohio currently allows multiple bonding instruments.
OK	None.
UT	While we accept a number of different types of bonds in Utah, our rules are somewhat prescriptive as to the types of bonds that are allowed. We do work closely with the operators to determine the amount of area that needs to be covered under the bond at any given time (phased bonding). Another thing that we have recently done includes, hiring a private consultant to conduct a quality control review of the reclamation bonds for the minerals mined in the state. This review helped us identify areas for improvement and ways to strengthen our position with respect to financial assurance. We also require a reclamation contract for each mine to be put in place that ties the bond to reclamation of the site. We have also been working on MOU's with land management agencies that will help define how we will administer the bonds.
VA	None.
WV	We are considering proposing legislation that would require a financial assurance mechanism that would cover the actual cost of reclamation. The exact type of mechanism has not yet been determined.

10) What adjustments to your regulatory program have you undertaken (or considered undertaking) in the area of financial assurance?

State	Response
AL	Adjustments to the regulatory program must be made through the legislature. That is a difficult task. No adjustments have been sought.
AR	A couple of years ago, we explored the possibility of a bond pool. However the state's economic position was not conducive for the legislature to provide the required start-up funding from general revenue.
CO	Standard methodologies used.
KY	None.
MD	We floated the concept of a bond pool in which all operators would participate by paying annual fees based upon acreage. The industry fought against the concept and prevented legislation from being submitted.
NM	Our agency made a number of changes to our financial assurance rules in 2003. Added to the list of available financial assurance mechanisms were trust funds and insurance. Guarantees are now limited to no more than 75% of the financial assurance obligation for a facility. The requirements for using collateral were clarified and expanded. For reclamation plans that are scheduled to last more than 5 years, the operator may use a net present value calculation for the financial assurance amount.

NY	We have increased the bond amounts per acre in the last two years. We have created and mandated the use of worksheets by staff to come up with bond amounts that can be justified. We have crafted guidelines that allow an independent third party to provide an alternate reclamation cost estimate if the permittee disagrees with the department's cost estimation.
NC	Open to new ideas and innovative approaches to assist operators in securing financial assurance and ensuring that such assurances remain in place until the obligation is satisfied (reclamation).
OH	Proposing all collateral posted be made "Payable to the State of Ohio".
OK	None.
UT	Until just recently, bonds for small mines were not required. Now that we have rules in place that require small mines to post bonds we are facing a challenge to get them all bonded. The minerals program recently hired a part-time bond coordinator who is responsible to coordinate with the operators and the financial institutions so that all of our mines can achieve compliance.
VA	None, other than a clarification of administrative procedures by regulation in 2003.
WV	We are considering proposing legislation that would require a financial assurance mechanism that would cover the actual cost of reclamation. The exact type of mechanism has not yet been determined.

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ARKANSAS
Bond Determination Form

A. Backfill (use one of the two choices below)

1) Material moved less than 500 ft.: _____ cubic yards X \$0.65= (1a) _____

2) Material moved more than 500 ft.: _____ cubic yards X \$1.30= (1b) _____

B. Topsoil replacement (as necessary): _____ acres X \$800.00= (2) _____

C. Topsoil Replacement (use one of the two choices below)

1) Topsoil spread by cubic yard: _____ cubic yards X \$1.30= (3a) _____

2) Topsoil spread by the acre: _____ acres X \$1300.00= (3b) _____

D. Revegetation of the site: _____ acres X \$900.00= (4) _____

Subtotal (Add lines 1 through 4): (5) _____

E. Engineering, Reclamation Management, and Administration (20% of Line 5): (6) _____

F. Mobilization (1.5% of lines 5 plus 6) (7) _____

Bond Total (Add lines 5, 6 and 7): (8) _____

NORTH CAROLINA

APPLICATION FOR A MINING PERMIT

E. DETERMINATION OF AFFECTED ACREAGE AND BOND

The following bond calculation worksheet is to be used to establish an appropriate bond (based upon a range of \$500 to \$5,000 per affected acre) for each permitted mine site based upon the acreage approved by the Department to be affected during the life of the mining permit. Please insert the approximate acreage, for each aspect of the mining operation, that you intend to affect during the life of this mining permit (in addition, please insert the appropriate reclamation cost/acre for each category from the Schedule of Reclamation Costs provided with this application form) OR you can defer to the Department to calculate your bond for you based upon your maps and standard reclamation costs:

CATEGORY	AFFECTED ACREAGE		RECLAMATION COST/ACRE*		RECLAMATION COST
Tailings/Sediment Ponds:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
Stockpiles:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
Wastepiles:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
Processing Area/Haul Roads:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
Mine Excavation:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
Other:	_____ Ac.	X	\$ _____/Ac.	=	\$ _____
TOTAL AFFECTED AC.:	_____ Ac.				
(TOTAL PERMITTED AC.:	_____ Ac.)				

Temporary & Permanent Sedimentation & Erosion Control Measures:

Divide the **TOTAL AFFECTED AC.** above into the following two categories: a) affected acres that drain into proposed/existing excavation and/or b) affected acres that will be graded for positive drainage where measures will be needed to prevent offsite sedimentation and sedimentation to onsite watercourses and wetlands.

a) Internal Drainage _____ Ac.

b) Positive Drainage _____ Ac. X \$1,500.00 = \$ _____

SUBTOTAL COST: \$ _____

Inflation Factor:

0.02 X SUBTOTAL COST: \$ _____ X Permit Life (1 to 10 years): _____

INFLATION COST: \$ _____

TOTAL COST = SUBTOTAL COST + INFLATION COST = \$ _____

Total Reclamation Bond Cost: \$ _____ (round down to the nearest \$100.00)

NORTH CAROLINA

SCHEDULE OF RECLAMATION COSTS_{10/2000 = applicos.sch.wpd} (Based upon range of \$500 - \$5,000 per affected acre)

COMMODITY CODES: SG = Sand and/or Gravel, GS = Gemstone, Borrow = Borrow/fill dirt, CS = Crushed Stone, DS = Dimension Stone, FS = Feldspar, MI = Mica, LI = Lithium, PF = Pyrophyllite, OL = Olivine, KY = Kyanite/Sillimanite/Andalusite, PH = Phosphate, CL = Clay/Shale, PE = Peat, AU = Gold, TI = Titanium, and OT = Other

Type	T/S Ponds	S.piles	W.piles	P.area/H.R.	Mine Excav.
SG, GS, Borrow	\$500/ac.(L) 1500(FI)	\$1800/ac.	\$2000/ac.	\$1800/ac.	\$500/ac.(L) \$2000(PD)
CS, DS, FS, MI, LI, PF, OL, KY	500(L) 1500(FI)	1800	2000	2000	500(L) 2500(PD)
PH	1000(L) 2500(FI)	2500	5000	5000	2000(L) 5000(PD)
CL	1000(L) 2500(FI)	2500	5000	5000	2000(L) 3700(PD)
PE, AU, TI, OT	1000(L) 2500(FI)	2500	3000	3500	2000(L) 5000(PD)

(L) = reclamation to a lake and revegetating sideslopes

(FI) = reclamation by filling in and revegetating

(PD) = reclamation by grading for positive drainage & revegetating

AS PER NCAC 15A 5B.0003, IF YOU DISAGREE WITH THE BOND AMOUNT DETERMINED BY THE BOND CALCULATION WORKSHEET, YOU MAY SUBMIT AN ESTIMATE OF RECLAMATION COSTS FROM A THIRD PARTY CONTRACTOR. SAID ESTIMATE MUST BE PROVIDED WITHIN 30 DAYS TO THE FOLLOWING ADDRESS: Mining Program, Land Quality Section, 1612 Mail Service Center, Raleigh, North Carolina 27699-1612

ALL ESTIMATES MUST INCLUDE THE FOLLOWING, AS A MINIMUM:

- FINAL GRADING COSTS PER ACRE
- LIME AND FERTILIZER COSTS PER ACRE
- YEAR-ROUND SEEDING MIXTURE COSTS PER ACRE (FROM APPROVED REVEGETATION PLAN IN APPLICATION/PERMIT DOCUMENT)
- MULCH AND ANCHORING COSTS PER ACRE
- ANY OTHER RECLAMATION COSTS NECESSARY TO COMPLY WITH THE APPROVED RECLAMATION PLAN FOR THE SITE IN QUESTION

YOU WILL BE NOTIFIED AS SOON AS POSSIBLE OF THE DIRECTOR'S FINAL BOND DETERMINATION.

State of South Carolina

Noncoal regulatory programs

1) Does your state have a financial assurance requirement for noncoal mining and reclamation?

Yes

2) If so, what areas are covered by the requirement (i.e. entire permit area; proposed affected area; haul roads; processing or stockpile areas)?

Any area affected by the mine operations (excavation, haul roads, stockpile areas, overburden storage, processing areas, etc.)

3) What types of financial assurance, if any, does your state require for mining reclamation obligations and what are the relative percentages?

The State allows for several bonding options (Surety Bonds, Assign of Savings, Registered Securities, Irrevocable Letters of Credit). The current percentages are:

50 Traditional surety bonds

21 Collateral

Please designate:

20 Cash or cash equivalents

1 Investment-grade rated securities

0 Interests in real or personal property

0 Water rights

0 Bond pools

0 Trust funds

29 Corporate guarantees

Please designate:

0 Self bonds

0 Parent guarantees

29 Third-party guarantees

0 Other

Please specify: _____

4) **What is the amount per acre required under your financial assurance procedure? (If a rate structure applies, please specify).**

Up to 25 acres affected by mine activity, the amount of the reclamation bond is set by law. For mines with land disturbances over 25 acres, the reclamation bond is calculated with a third party estimate of the work necessary to reclaim the site (usually based on \$3,000 - \$5,000.00 per acre). The SC Mining Act specifies bond amount as follows:

<u>AFFECTED AREA</u>	<u>BOND AMOUNT</u>
Less than 10 acres	\$10,000.00
10 acres or more, but less than 15 acres	\$15,000.00
15 acres or more, but less than 25 acres	\$25,000.00
25 acres or more	\$25,000.00 or more

5) **What types of calculation methodologies do you employ for determining the required financial assurance amount?**

For sites with disturbed acreage over 25 acres, the Department accepts a third party estimate of the work required to reclaim the site. This includes a break down of the required site work (grading, ground preparation, seeding, etc.). This estimate is used to determine what it would cost the State to contract a third party to complete reclamation of the site, if necessary.

6) **To what extent has RELEASE of financial assurance obligations been an issue for your state? Do you have procedures or guidelines in place addressing release?**

The Department has experienced minor to moderate concerns with getting reclamation completed in a timely fashion (so the reclamation bond stays in place). The Act and regulations do allow the Department to terminate the mine or portions of a mine when it is determined excavations are complete – once that determination is made, a timeframe to initiate and complete reclamation is set by law.

7) **What is your experience with regard to the availability of surety bonds?**

The availability of surety companies willing to issue reclamation bonds is cyclic and has diminished over time.

8) **What are the specific challenges you are facing with respect to financial assurance in your state?**

Smaller companies being able to obtain reclamation bonds.

9) **What types of innovative approaches are you considering with respect to financial assurance (i.e. segregating risk (short v. long term); use of dedicated trust funds; use of multiple instruments; matching the level of risk to the appropriate mechanism; phased bonding)?**

None at this time.

10) **What adjustments to your regulatory program have you undertaken (or considered undertaking) in the area of financial assurance?**

The Department has not undertaken any adjustments recently.

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